

This record is a partial extract of the original cable. The full text of the original cable is not available.

UNCLAS SECTION 01 OF 03 LAGOS 002023

SIPDIS

STATE FOR AF/EPS - DKRZYWDA
STATE PASS TO USTR - CHAMILTON
COMMERCE FOR ITA - HVINEYARD
TREASURY FOR OWHYCHE-SHAW

E.O. 12958: N/A

TAGS: [ETRD](#) [ECON](#) [ELAB](#) [PREL](#) [PGOV](#) [NI](#) [AGOA](#)
SUBJECT: NIGERIA: AGOA ELIGIBILITY REVIEW

REF: (A) STATE 263702 (B) 02 ABUJA 02803

11. (U) In response to Ref A, U.S. Mission Nigeria is pleased to provide the following update to the 2002 AGOA eligibility review (Ref B). Nigeria's progress toward fulfilling AGOA eligibility requirements has been slow and fitful, but progress continues. Post recommends that Nigeria remain eligible for AGOA benefits.

PROGRESS TOWARD A MARKET-BASED ECONOMY

12. (U) Nigeria continues to make progress toward establishing a market-based economy that protects private property rights and minimizes government interference. Since its 1999 launch of a three-stage privatization program, the GON has privatized 25 enterprises (among them hotels, banks and cement manufacturing firms) and moved toward the privatization of several others, including the National Electric Power Authority (NEPA) and Nigeria Telecommunications Limited (NITEL). The GON plans to split NEPA into autonomous generating, transmission, distribution and billing firms and expects to divest 51 percent of its shares in NITEL at the expiration of the firm's three-year management contract with Pentascope International, a Dutch communications consortium. The GON also raised fuel prices and has hinted at plans for an additional increase, thereby reaffirming its commitment to reducing government interference in the economy.

13. (U) Progress toward establishing a rules-based open trading system has been slower; the GON still tends to change policies suddenly and arbitrarily. In March 2003, the GON once again cut duties on many items (mostly raw materials and capital equipment) and raised them on others (primarily finished goods and agricultural products). A protectionist bent is increasingly evident in Nigerian trade policy, as many items - frozen poultry, certain printed fabrics, cassava, ice cream, fruit juice in retail packs, toothpicks, beer and pasta - are simply banned, ostensibly to foster domestic production, even though domestic industries cannot meet demand.

THE RULE OF LAW AND POLITICAL PLURALISM

14. (U) Ethnic and religious tensions pose significant challenges to GON efforts to establish the rule of law and political pluralism. Communal clashes have resulted in numerous injuries and deaths, and Nigeria's under-funded, under-trained and under-equipped police force is often hard-pressed to stop or prevent violence. The Nigerian military has managed to calm some particularly violent areas, but looting and indiscriminate killing have marred its efforts.

15. (U) Civil and criminal cases move through Nigeria's courts slowly, and the country's judicial system generally lacks the resources and administrative capability to function effectively. The adoption of Sharia law in 12 of Nigeria's northern states remains a contentious issue, and few people in government or the courts are willing to address the problem. Still, the Supreme Court and appellate courts command wide respect, and the former continues to assert its role as the final arbiter of disputes in Nigeria's ongoing efforts to adopt political and economic reforms.

16. (U) Nigeria's record of political pluralism is slightly better. Thirty political parties contested the spring 2003 federal and state elections, and various parties' elected officials share power at all levels. Despite reports of widespread electoral fraud, President Obasanjo's administration enjoys broad support, and the vast majority of Nigerians continue to support democratic practices.

ELIMINATION OF BARRIERS TO U.S. TRADE AND INVESTMENT

17. (U) Nigeria continues to make progress toward creating an environment conducive to domestic and foreign investment. The GON allows for the free movement of foreign exchange across Nigeria's borders and generally does not discriminate against U.S. goods or services. Foreign firms are allowed to invest in all sectors of the Nigerian economy, and investors who abide by regulations governing the establishment of businesses are assured national treatment.

18. (U) Nigeria's record of intellectual property rights protection has improved. The country is party to numerous conventions and agreements regarding patent, trademark and copyright protection, and laws generally favor intellectual property owners and impose criminal penalties on violations of owners' rights. The GON has introduced legislation to create a quasi-independent intellectual property rights commission and bring Nigeria into full compliance with the WTO TRIPS agreement. Licensed software and visual materials are better protected now than they once were. Still, scarce resources and a lack of expertise make enforcement of intellectual property rights difficult.

POVERTY REDUCTION AND PROMOTION OF PRIVATE ENTERPRISE

19. (U) The GON recently unveiled a new economic plan, the National Economic Empowerment and Development Strategy, that outlines strategies for attaining macro-economic stability (with emphasis on low inflation and stable interest and exchange rates), achieving annual GDP growth of 5-7 percent, and reducing poverty. The plan reflects the GON's commitment to fiscal discipline and public sector reforms and emphasizes health, education and agriculture. If the plan is implemented effectively (a far from certain prospect), the GON may begin to make progress in improving the living standards of the two-thirds of Nigerians who live in poverty.

110. (U) The GON continues to promote the development of private enterprise through its Small and Medium Industries Equity Investment Scheme, under which banks are required to set aside 10 percent of before-tax profits for equity investments in industrial enterprises. 80 banks had set aside \$103 million but had invested only ten percent of the available funds in 36 different projects as of December 2002.

EFFORTS TO COMBAT CORRUPTION

111. (U) Nigeria continues to make progress toward reducing corruption. A federal anti-corruption commission is in place, and public enterprises are regularly audited. The GON awards government contracts under an increasingly transparent open tender system and now subjects federally funded capital projects over USD 10,000 to due diligence tests. In general, the GON has succeeded in reducing the most blatant forms of corruption; it has been less successful, however, in preventing back-room maneuvers that bias decisions.

PROTECTION OF INTERNATIONALLY RECOGNIZED WORKER RIGHTS

112. (U) The Nigerian Constitution protects the right of

association and the right to organize and bargain collectively, but several statutory restrictions remain in place. Only one labor federation, the Nigeria Labor Congress, is recognized, but the GON has indicated that it may amend existing legislation to allow multiple trade federations.

13. (U) Nigerian law outlaws forced or bonded labor, prohibits the employment of children younger than age 15 in commerce and industry, and restricts other child labor to home-based agricultural or domestic work for a maximum of 8 hours per day. Minimum wages, hours of work, and general health and safety provisions are statutorily mandated, but enforcement remains weak. The private sector's reliance on casual or part-time labor is a problem, particularly as casual workers are denied benefits and prohibited from joining labor unions. The GON has been slow to address the issue, but increasingly loud protests from Nigerian workers may prompt progress.

U.S. NATIONAL SECURITY AND FOREIGN POLICY INTERESTS

14. (U) Nigeria does not engage in activities that undermine U.S. national security or foreign policy interests.

PROTECTION OF INTERNATIONALLY RECOGNIZED HUMAN RIGHTS

15. (U) The GON's human rights performance has been mixed. There have been improvements in several areas, but serious problems remain. Nigeria does not support international terrorism; on the contrary, it has been a staunch ally in the U.S.-led war on terror.

HINSON-JONES